

RECEIVED  
CENTRAL FAX CENTER

JUL 22 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

OFFICIAL

In re application of:	Art Unit:	1631
Barkur G. BHAT <i>et al.</i>	Examiner:	Marjorie A. Moran
Appln. No.: 09/267,199	Atty. Dkt. No.:	16517.233
Filed: March 12, 1999	Appeal No.:	Not Yet Assigned (Conf. No. 6701)
Title:	Nucleic Acid Molecules and Other Molecules Associated with the Tocopherol Pathway	

## Waiver of Hearing

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A hearing before the Board of Patent Appeals and Interferences ("Board") was requested on March 29, 2004, in the above-identified application. Applicants hereby waive attendance at this hearing, and respectfully request that the Board make its decision based on the record.

Respectfully submitted,

Date: July 22, 2004

Thomas E. Holsten (Reg. No. 46,098)  
Holly Logue Prutz (Reg. No. 47,755)  
David R. Marsh (Reg. No. 41,408)

Of Counsel  
Lawrence M. Lavin, Jr.  
(Reg. Atty. No. 30,768)  
Thomas E. Kelley  
(Reg. Atty. No. 29,938)  
Monsanto Company

ARNOLD & PORTER LLP  
555 Twelfth Street, NW  
Washington, DC 20004-2402  
(202) 942-5000 telephone  
(202) 942-5999 facsimile

I hereby certify that the foregoing Waiver of Hearing is being facsimile transmitted to the attention of the Board of Patent Appeals and Interferences, via facsimile number (703) 308-6200, and to the U.S. Patent and Trademark Office central facsimile number (703) 872-9306.

  
Thomas E. Holsten (Reg. No. 46,098)

July 22, 2004  
Date

RECEIVED  
CENTRAL FAX CENTER

JUL 22 2004

ARNOLD &amp; PORTER LLP

202.942.5000  
202.942.5999 Fax555 Twelfth Street, NW  
Washington, DC 20004-1205

OFFICIAL

## Fax Transmittal

July 22, 2004

RECIPIENT NAME(S)	RECIPIENT FAX NUMBER(S)	RECIPIENT TELEPHONE NUMBER(S)
US Patent and Trademark Office Board of Patent Appeals and Interferences	(703) 872-9306 (703) 308-6200	(703) 305-4673
SENDER	SENDER'S TELEPHONE NUMBER	SENDER'S ROOM NUMBER
David R. Marsh	(202) 942-5068	982
CLIENT/MATTER NUMBER	TIMEKEEPER NUMBER	NUMBER OF PAGE(S)
16517.001	4979	We are transmitting 18 page(s) (including this cover sheet)
TRANSMISSION DEADLINE (DATE & TIME)		ALTERNATE TELEPHONE NUMBER (OPTIONAL)
This document must be transmitted no later than: July 22, 2004/ASAP		Alternate telephone number at which the sender can be reached if there are difficulties with this fax: (202) 942-5159
If you experience difficulty receiving this fax transmission, please contact the operator at 202.942.5837.		
MESSAGE		

Re: Appeal Nos. 2003-1072, 2003-1073, 2003-1074, 2003-1666, 2003-1939, 2004-1034, 2004-1272,  
2004-1273, 2004-1275, 2004-1406, 2004-1480, 2004-1725, 2004-1773 and  
Application No. 09/267,199 (BHAT *et al.*) filed March 12, 1999 (Conf. No. 6701)

Atty. Dkt. Nos.: 38-21(15404)B/US, 38-21(15726)B/US, 38-21(15760)B/US, 16517.128,  
16517.277, 16517.314, 16517.032, 16517.285, 16517.285, 16517.276,  
16517.276, 16517.272, 16517.281, 16517.231, 16517.142 and 16517.233

See the attached. Please acknowledge receipt via return facsimile.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

2004 JUL 27 AM 10:15

RECEIVED

## PRIVILEGED AND CONFIDENTIAL

Information intended only for the use of the addressee named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. Mail.

## ARNOLD &amp; PORTER LLP

David R. Marsh, Ph.D.  
David\_Marsh@aporter.com

202.942.5068  
202.942.5999 Fax

555 Twelfth Street, NW  
Washington, DC 20004-1206

July 22, 2004

VIA FACSIMILE

Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Re: Waivers of Hearing

Dear Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office is a Waiver of Hearing for each of the following applications:

1. Appeal No.: Not Yet Assigned/Conf. No. 6701  
Serial No. 09/267,199, filed March 12, 1999  
Applicants: Barkur G. BHAT *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with the Tocopherol Pathway  
Attorney Docket No.: 16517.233
2. Appeal No.: 2003-1072  
Serial No. 09/333,534, filed June 14, 1999  
Applicants: Timothy W. CONNER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 38-21(15404)B/US
3. Appeal No.: 2003-1073  
Serial No. 09/540,234, filed April 3, 2000  
Applicants: Timothy W. CONNER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 38-21(15726)B/US
4. Appeal No.: 2003-1074  
Serial No. 09/552,086, filed April 19, 2000  
Applicants: Robert E. BUEHLER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 38-21(15760)B/US
5. Appeal No.: 2003-1666  
Serial No. 09/521,640, filed March 10, 2000  
Applicants: Joseph R. BYRUM *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.128

Washington, DC   New York   London   Brussels   Los Angeles   Century City   Northern Virginia   Denver

---

ARNOLD & PORTER LLP

---

Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
July 22, 2004  
Page 2

6. Appeal No.: 2003-1939  
Serial No. 09/333,535, filed June 14, 1999  
Applicants: Joseph R. BYRUM *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.277
7. Appeal No.: 2004-1034  
Serial No. 09/666,355, filed September 20, 2000  
Applicants: Karen L. FINCHER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.314
8. Appeal No.: 2004-1272  
Serial No. 09/371,146, filed August 9, 1999  
Applicants: Nordine CHEIKH *et al.*  
Title: Annotated Plant Genes  
Attorney Docket No.: 16517.032
9. Appeal No.: 2004-1273  
Serial No. 09/637,086, filed August 11, 2000  
Applicants: Karen L. FINCHER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.285
10. Appeal No.: 2004-1275  
Serial No. 09/540,235, filed April 3, 2000  
Applicants: Dane K. FISHER *et al.*  
Title: Nucleic Acid Sequences from *Cyanidium Caldarium* and Uses Thereof  
Attorney Docket No.: 16517.276
11. Appeal No.: 2004-1406  
Serial No. 09/553,094, filed April 18, 2000  
Applicants: Scott E. ANDERSEN *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.272

---

ARNOLD & PORTER LLP

---

Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
July 22, 2004  
Page 3

12. Appeal No. 2004-1480  
Serial No. 09/732,627, filed December 8, 2000  
Applicants: Karen L. FINCHER *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.281
13. Appeal No.: 2004-1725  
Serial No. 09/233,218, filed January 20, 1999  
Applicants: Claire A. CAJACOB *et al.*  
Title: Nucleic Acid Molecules and Other Molecules Associated with the Tetrapyrrole Pathway  
Attorney Docket No.: 16517.231
14. Appeal No.: 2004-1773  
Serial No. 09/421,106, filed October 15, 1999  
Applicants: Joseph R. BYRUM  
Title: Nucleic Acid Molecules and Other Molecules Associated with Plants  
Attorney Docket No.: 16517.142

It is respectfully requested that acknowledgement of receipt of these waivers be sent via return facsimile to the undersigned at 202-942-5999.

In the event that extensions of time are necessary to prevent abandonment of these patent applications, then such extensions of time are hereby petitioned. Appellants do not believe any additional fees are due in conjunction with these filings. However, if any fees are required in the present applications, including any fees for extensions of time, then the Commissioner is hereby authorized to charge such fees to Arnold & Porter LLP Deposit Account No. 50-2387, referencing docket number 16517.001.

Sincerely,



David R. Marsh (Reg. No. 41,408)

Enclosures